

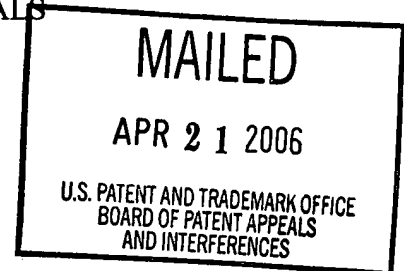
The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte MARCO WINTER  
\_\_\_\_\_

\_\_\_\_\_  
Application No. 09/469,865  
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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER  
\_\_\_\_\_

This application was received at the Board of Patent Appeals and Interferences on March 22, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

**EXAMINER'S ANSWER**

May 19, 2005, an Examiner's Answer was mailed. A review of the Examiner's Answer pertaining to the required appeals conference is not in compliance with the Manual of Patent Examining Procedure (MPEP)§ 1208 (8th ed., rev. 1, Feb. 2003).

According to MPEP § 1208:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner

(SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the type or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.

The Examiner's Answer was not signed or initialed by both of the appeals conference participants. Appropriate correction is required as required under MPEP § 1208.

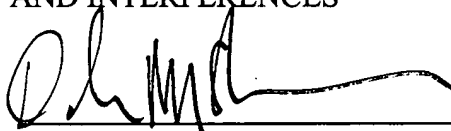
It should also be noted that the required Appeal Brief fee was not charged to the deposit account.

Accordingly, it is

**ORDERED** that the application is returned to the examiner for:

- 1) vacate the Examiner's Answer mailed May 19, 2005;
- 2) to obtain the conferee's initial or signature on the Examiner's Answer;
- 3) have required Appeal Brief fee charged to the deposit account; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

A handwritten signature in black ink, appearing to read 'D. M. Shaw', written over a horizontal line.

DALE M. SHAW  
Program and Resource Administrator  
(571)272-9797

DMS/dpv

Application No. 09/469,865 .

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